

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MIKE PEREZ,	:	CIVIL ACTION NO. 1:04-CV-1944
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 25th day of April, 2005, upon consideration of communications from counsel for defendant to court staff on Friday, April 21, 2005, representing that Scott Clarkson, a witness previously directed to appear and testify at a hearing scheduled to commence on Wednesday, April 27, 2005, will be unavailable as a witness on Wednesday, April 27, 2005, it is hereby ORDERED that:

1. Based on the representations of counsel for defendant, Scott Clarkson shall not be called to testify as a witness at the hearing.
2. Counsel for defendant shall submit to the court, at the time of the hearing on Wednesday, April 27, 2005, a sworn affidavit from Scott Clarkson.
 - a. The affidavit shall indicate the date on which Scott Clarkson learned that he would be unavailable to appear and testify at the hearing, shall affirm that Scott Clarkson cannot appear at the hearing, and shall describe with reasonable particularity Scott Clarkson's knowledge of facts potentially relevant to plaintiff's allegations.¹

¹ The affidavit need not and should not divulge any information that counsel for defendant reasonably deems confidential. The affidavit is intended and will be introduced as evidence of record during the hearing.

- b. The affidavit shall be accompanied by all documents and materials, including video recordings, relevant to plaintiff's allegations and over which Scott Clarkson has control or responsibility and shall affirm that Scott Clarkson has no knowledge of other documents or materials relevant to plaintiff's allegations.²
3. Except as modified herein, all previous orders of court in the above-captioned case remain in full force and effect.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

² Preparing the affidavit and securing these documents and materials should not be particularly onerous, since counsel for defendant has been on notice for more than ten days that Scott Clarkson would be required to testify and produce relevant evidence at the hearing. (Doc. 56).